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23 December 1983

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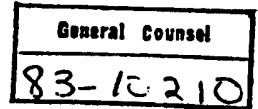
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GENERAL COUNSEL

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503



December 13, 1983

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28 DEC 1983

Honorable William J. Casey
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Casey:

Enclosed is a proposed Executive order entitled "Commercial Expendable Launch Vehicle Activities."

In accordance with the provisions of Executive Order No. 11030, as amended, it was submitted to this office, along with the enclosed transmittal letter, by the Department of Transportation. The proposed order would implement the President's decision that Transportation shall be the lead agency in facilitating commercialization of ELVs.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving any comments you may have concerning this proposal. If you have any comments or objections they should be received no later than Tuesday, December 27, 1983.

Comments or inquiries may be submitted by telephone to Mr. John F. Cooney of this office (395-5600).

Sincerely,

Michael J. Horowitz
Counsel to the Director

Enclosure



U.S. Department of
Transportation

General Counsel

Washington, D.C. 20590

DEC 12 1983

Honorable David A. Stockman
Director, Office of Management
and Budget
Washington D.C. 20503

Dear Mr. Stockman:

Attached for your review and that of concerned agencies is a draft Executive Order carrying out a recent decision of the President to designate the Department of Transportation as the lead agency within the federal government for encouraging and facilitating commercial expendable launch vehicle (ELV) activities by the United States private sector.

Background

On May 15, 1983, the President issued a National Security Decision Directive that, among other things, established a working group under the National Security Council to make recommendations on interim procedures for government licensing of ELV activities, establishment of streamlined licensing requirements and processes for commercial launch operations, and on the appropriate lead agency within the U.S. government to be responsible for commercial launch activities.

The working group issued its report September 15, 1983. Following a meeting of the Cabinet Council on Commerce and Trade on November 16, the President decided to designate the Department of Transportation as lead agency. The working group recommended an Executive Order designating the lead agency and describing its responsibilities to encourage and facilitate the commercialization of ELV's.

Content of the Draft Executive Order

The draft Executive Order is intended to define the lead agency role within the federal government (see section 1). The Order is primarily the product of the working group, with several revisions explained below, and it fulfills the President's direction to put in place a process within the Executive Branch to facilitate the commercialization of ELV's. Sections 2, 3, and 4 establish an efficient process to expedite federal government review and approval of commercial ELV activities. This is accomplished without the reassignment or other adjustment of statutory or operational authority currently exercised by any federal agency (section 5) or the creation of any new substantive or procedural right or privilege in any person or organization (section 6).

The approach taken in the Executive Order would simplify and speed the federal government's ability to assist the private sector in ELV commercialization without recourse to legislation. This approach also leaves the

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expertise and substantive authority of concerned military and civilian agencies undisturbed, allowing a rapid and smooth shift to expedited handling of applications.

DOT's proposed modifications to the working group's draft are of two types. Editorial modifications were made at the request of OMB and others to conform to standard drafting for Executive Orders. These are self-evident and do not need explanation. The second type of modification constitutes substantive improvement that is explained below.

Responsibilities of lead agency. Section 2(c) in the working group draft would have directed the lead agency to "handle, coordinate, and expedite private sector requests for commercial ELV launches." The word "handle" suggested a shift of substantive responsibility, and therefore the attached Order instead directs DOT to

(c) provide leadership in the establishment within concerned departments and agencies of procedures that expedite the processing of private sector requests to obtain licenses necessary for commercial ELV launches and ranges.

Besides the emphasis on procedure in this revised section, the words "and ranges" were added at the end of the text to make clear that the assistance of the lead agency would also be available to a private sector entity that simply wished to establish a commercial launch range for future business, but without a specific launch operation in mind. This conforms to the licensing process envisioned by the working group.

Section 2(f) of the working group draft (section 2(e) of the attached draft) made the lead agency the "single collection point for documentation", while the attached draft instead makes DOT the "single point of contact for collection and dissemination of documentation." Again, the intent of the change is to stress the lead agency's processing role. Sections 2(f) and 2(g) of the attached draft contain comparable changes in emphasis.

Section 2(g) improves the working group's section 2(h) by adding "treaties" to the listing of government policies, statutes, and regulations as likely candidates for lead-agency scrutiny and recommendations for improvement.

Sections 2(i) and 2(j) of the working group draft do not appear in the attached Order because they might have suggested new arrangements for the resolution of policy questions within the Executive Branch. Section 2(k) appears as 2(h) of the attached Order, with the modifier "strategic" dropped from the planning function to avoid any unintended connotation that this function would supplant planning by other agencies.

Interagency Group. As set forth in the working group draft, Section 3 established a group of affected agencies to advise and assist the lead agency in performing its responsibilities under the Order. This interagency group will be an important vehicle for expediting overall governmental approval. The only changes in emphasis from the working group draft are to delete reference to the FAA (which incorrectly suggests that it is separate from the Department of Transportation), to constitute the group under the Executive Order rather than by separate action of the lead agency, and to stress that the group will "advise" as well as "assist" the lead agency.

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Responsibilities of Other Agencies. Section 4 of the working group draft established the responsibility of "involved agencies" to "cooperate with the Lead Agency to assist it in performing its assigned functions" and to provide the lead agency "requested information to the fullest extent possible." Section 4 of the attached draft is redrafted to place the responsibility to assist the lead agency foremost in the section, and to add two responsibilities to that of providing information. The additional duties set forth in 4(b) and 4(c) are virtually self-evident: They direct the agencies to --

(b) review and revise their regulations and procedures to eliminate unnecessary regulatory obstacles to the development of commercial ELV operations and to ensure that those regulatory procedures and requirements found essential are administered as efficiently as possible; and

(c) establish timetables for the expeditious handling of and response to applications for licenses and approvals for commercial ELV activities.

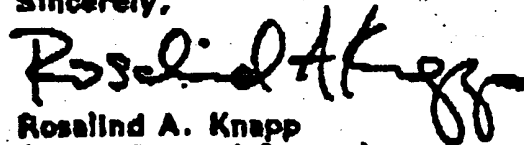
Care was taken in the drafting of these duties to assure that they run directly to the agency from the President. For purposes of this section, we are assuming that the Federal Communications Commission meets the definition of "Executive agency."

Sections 5 and 6. Unnecessary language was deleted from each of these sections, so that the unambiguous assurances of continued agency jurisdiction are expressed without the use of undefined terms which could cloud jurisdictional questions.

The Department would appreciate expedited review and approval of the draft Executive Order, to permit fulfillment of the policy enunciated by the President in May 1983 to expedite government processing of industry applications. Private sector activities are currently underway which the Department wishes to assist.

For your information, it is anticipated that the Secretary will transmit a copy of the final Executive Order to the appropriate committees of Congress, consistent with the provisions of section 110 of the National Aeronautics and Space Act of 1984 (Public Law 98-52, July 15, 1983; 42 USC 2466).

Sincerely,



Rosalind A. Knapp
Acting General Counsel

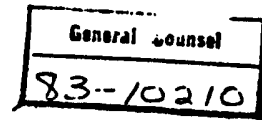
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ELV COMMERCIALIZATION



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